



U.S. Department of Justice

Environment and Natural Resources Division

BSG:DLH
90-11-3-1620

Environmental Enforcement Section
P.O. Box 7611
Washington, DC 20044-7611

Telephone (202) 305-0260
Facsimile (202) 616-6584

April 9, 2001

EPA Region 5 Records Ctr.



275161

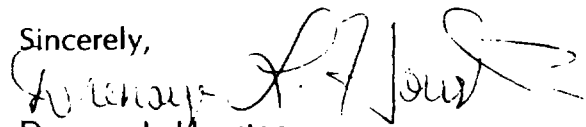
Counsel of Record

Re: United States v. Elsa Skinner-Morgan

Dear Counsel:

Please find the enclosed first pages and signature pages of the Remedial Action Consent Decree and the MSW Consent Decree, both of which were entered by the Court on Monday, April 2, 2001. Thank you very much for your cooperation in this matter.

Sincerely,


Drenaye L. Houston
Senior Attorney

enclosure

cc:

Counsel of Record Identified on the Attached Service List

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of April 2001 in the matter of United States v. Elsa Skinner-Morgan, I caused to be served a true and correct copy of the first page and the signature page of the Remedial Action Consent Decree and a true and correct copy of the first page and the signature page of the MSW Consent Decree, both entered by the Court on April 2, 2001 to the following defendants via prepaid, first class U.S. mail:

A. Christian Worrell, III
Graydon, Head & Ritchey
1900 Fifth Third Center
511 Walnut Street
Cincinnati, OH 45202

James C. Diggs
Senior Vice President and
General Counsel
PPG Industries, Inc.
One PPG Place
Pittsburgh, PA 15272

Gary Gengel, Esq.
Georgia-Pacific
Oppenheimer Wolff & Donnelly
LLP
3300 Plaza VII
4500 South Seventh Street
Minneapolis, MN 55402

Jonathan R. Haden
Lathrop & Gage L.C.
Allied Waste Industries-BFI
2345 Grand Blvd. Suite 2800
Kansas City, MO 64108-2612

Stephen J. Axtell, Esq.
Thompson Hine & Flory LLP
312 Walnut Street
14th Floor
Cincinnati, OH 45202-4089

Bonni Fine Kaufman, Esq.
Hale and Dorr, LLP
American Premier Underwriting
Chemical Leaman
The Willard Office Building
1455 Pennsylvania Ave., NW
Washington, DC 20004

Erin Isaacson
General Counsel
Velsicol Chemical Corporation
10400 W. Higgins, Suite 600
Rosemont, IL 60018

Russell S. Frye
Collier, Shannon, Rill & Scott,
PLLC
American Standard & Steelcraft
30050 K. Street, NW Suite 400
Washington, D.C. 20007

Steven D. Smith
Project Manager
Solutia Inc.
Monsanto Company
575 Maryville Centre Drive
P. O. Box 66760
St. Louis, MO 63141

Sharon Post
Borden Chemical, Inc.
180 East Broad Street
Columbus, OH 43215

Kevin N. McMurray
Frost & Jacobs, LLP
Avon Products
2500 PNC Center
201 East Fifth Street
Cincinnati, OH 45202-4182

C. Richard Spring
Director of Environmental Affairs
Borden, Inc.
180 East Broad Street
Columbus, OH 43215

Beth M. Ellis
Michelin North America, Inc.
BF Goodrich Company
P.O. Box 19001
Greenville, SC 29602

Theresa L. Cerwin
Authorized Agent - Service of
Process
General Motors Corporation
Legal Staff
New Center One Bldg.
3031 W. Grand Blvd.
Detroit, MI 48202

Anne H. Lewis
Bayer Corporation
100 Bayer Road
Pittsburgh, PA 15205-9741

Ronald J. Gizzi
General Counsel
Formica Corporation
15 Independence Blvd.
Warren, NJ 07059

David L. Bell, Esq.
BP Amoco/BP Exploration & Oil,
Inc.
200 East Randolph Drive
Chicago, IL

Grace Healy
Champion International Corporation
One Champion Plaza
Stamford, CT 06921

CT Corporation
Ford Motor Company
1300 East 9th Street
Cleveland, OH 44114

Michael J. O'Callaghan, Esq.
Shumaker, Loop & Kendrick, L.P.
2210 Huntington Center
41 S. High Street
Columbus, OH 43215

John J. Finnigan, Jr., Senior Counsel
Cincinnati Gas & Electric Company
139 East 4th Street
25th Floor, Atrium II
Cincinnati, OH 45202-0960

Karl S. Bourdeau, Esq.
Beveridge & Diamond, P.C.
1350 "I" Street, N.W., Suite 700
Washington, D.C. 20005-3311

Roger Florio
Counsel - Environmental Affairs
GE Aircraft Engines
1 Neumann Way, Mail Drop T-165
Evendale, OH 45215

CSC The United States Corporation
Ciba Specialty Chemical Corp.
1013 Center Road
Wilmington, DE 19805-1297

Stephen N. Haughey, Esq.
Frost & Jacobs, LLP
City of Montgomery
201 East Fifth Street, Suite 2500
Cincinnati, OH 45202

CT Corporation
The Dow Chemical Company
30600 Telegraph Road
Bingham Farms, MI 47025

Jeffrey S. Goldenberg, Esq.
Murdock & Goldenberg
City of Silverton
700 Walnut Street, Suite 400
Cincinnati, OH 45202-2015

Karri K. Haffner
Barrett & Weber
City of Reading
105 East Fourth Street, Suite 500
Cincinnati, OH 45202

Laura A. Ringenbach
Taft, Stettinius & Hollister LLP
(Dow & Morton)
1800 Firststar Tower
425 Walnut Street
Cincinnati, OH 45202-3957

Thomas A. Waldman, Esq.
Cytec Industries, Inc.
5 Garrett Mt. Plaza
W. Paterson, NJ 07424

Ross E. Austin, Esq.
DuPont Legal - D7084
E.I. DuPont Remington Arms
1007 Market Street
Wilmington, DE 19898

Jo Lynn White
BFI/Allied Waste
Corporate Counsel
Allied Waste Industries, Inc.
15880 N. Greenway-Hayden Loop,
Suite 100
Scottsdale, AZ 85260

Peter T. Stinson
Dickie, McCamey & Shilcote
PPG
Suite 400, Two PPG Place
Pittsburgh, PA 15222-5402

CT Corporation
Elf Atochem North America, Inc.
208 S. LaSalle Street
Chicago, IL 60604

Timothy R. Evans
Elsa/David Skinner Morgan
315 S. Monument Avenue
Hamilton, OH 45012

Ronald T. Allen
Assistant General Counsel
Georgia-Pacific
133 Peachtree Street, NE
Atlanta, GA 30303

David M. Bullock
Johnston Coca-Cola
1200 First Union Tower
150 Fourth Avenue North
Nashville, TN 37219-2433

Betty Jean Bailey
Environmental Administrator
Ludlow Corp. & Tyco International
One Tyco Park
Exeter, NH 03833

Ronald L. Andes
Marathon Ashland Petroleum LLC
539 South Main Street
Findlay, OH 45840

Kevin J. Hopper
MVM, Inc.
7434 Jager Court
Cincinnati, OH 45230

Eric G. Johannessen
Masonite Corporation
6400 Poplar Avenue
Memphis, TN 38197

J. Alan Mack, Esq.
Occidental Chemical Corporation
5005 LBJ Freeway
Dallas, TX 75244-6119

David T. Morgan
Mecco, Inc.
P.O. Box 368
Middleton, OH 45042

Jane C. McGregor, Senior Counsel
Procter & Gamble Company
One Procter & Gamble Plaza
Cincinnati, OH 45202

W. Glenn Forrester, Vice President
Merrell Pharmaceuticals, Inc.
399 Interpace Parkway
Parsippany, NJ 07054

Village of Lincoln Heights
Matthew W. Fellerhoff, Esq.
Manley Burke & Cook
225 W. Court Street
Cincinnati, Ohio 45202

Jeffrey C. Wyant
Morton International
100 Independence Mall West
Philadelphia, PA 19106

Siri S. Marshall
Ralcorp Holdings, Inc.
Number One General Mills Blvd.
Minneapolis, MN 55426

Audrey Friedel
Rohm and Haas Company
100 Independence Mall West
Philadelphia, PA 19106

Douglas L. Hensley
Keating, Muething & Klekamp,
P.L.L.
Rumpke Entities
1400 Provident Tower
One East Fourth Street
Cincinnati, OH 45202

G.A. Thompson
Shell Oil Company
910 Louisiana
Houston, TX 77252-2463

Scott M. Slovin
Schwartz, Manes & Ruby
King Wrecking Company, Inc.
2900 Carew Tower
441 Vine Street
Cincinnati, OH 45202-3090

Thomas J. Haines
Sunoco, Inc.
1801 Market Street
Philadelphia, PA 19103

R. Scott McCay
Texaco, Inc.
1111 Bagby
Houston, TX 77002

Kenneth R. Arnold, Esq.
Henkle Corporation
49 Valley Drive
Furlong, PA 18925

John MacDonald,
Assistant Secretary
Union Carbide Corporation
39 Old Ridgebury Road
Danbury, CT 06817

Ava Harter, Esq.
Thompson, Hine & Flory LLP
United Water Waste Services, Inc.
3900 Key Tower
127 Tower Square
Cleveland, OH 44104

Stephen N. Haughey, Esq.
Frost & Jacobs, LLP
Village of Glendale
201 East Fifth Street, Suite 2500
Cincinnati, OH 45202

Wijdan Jreisat
Watson's/J & J Distributing
Company
C.M. Paula Company
255 East Fifth Street, Suite 2400
Cincinnati, OH 45202

Dustin Ordway, Esq.
Miller, Johnson, Snell &
Cummiskey, P.L.C.
250 Monroe Avenue
Grand Rapids, MI 49501-0306

Linda W. Tape, Esq.
Christopher N. Bolinger, Esq.
Joseph G. Nassif, Esq.
Monsanto Company
(Solutia, Inc.)
One Mercantil Center
St. Louis, MO 63101-1693

Thomas A. Lorenzen
Environmental Defense Section
Environment and Natural Resources
Division
U.S. Department of Justice
P. O. Box 23986
Washington, D.C. 20026-3986

Craig Melodia
Regional Counsel, EPA Region V
77 West Jackson Blvd.
Chicago, IL 60604-3590

Sherry Estes
Regional Counsel, EPA Region V
77 West Jackson Blvd.
Chicago, IL 60604-3590

Terry W. Baer
King Container Services, Inc.
2020 Stapleton Court
Cincinnati, OH 45240

Douglas B. Clark
Foley & Lardner
Newell/Anchor Hocking
P.O. Box 1497
Madison, WI 53701-1497

Lois Godfrey-Wye, Esq.
Steve Oster, Esq.
Wilkie, Farr & Gallagher
Chemical Leaman Tank Lines
Three Lafayette Centre
1155 21st Street, N.W., Suite 600
Washington, D.C. 20036-3384

Vincent B. Stamp, Esq.
Charles R. Dyas, Jr., Esq.
Dinsmore & Shohl
Formica Corporation/Borden
Chemical, Inc.
1900 Chemed Center
255 E. Fifth Street
Cincinnati, OH 45202

Linda L. Bently, L.A.
General Motors Corporation
3044 West Grand Blvd.
Room 12-149
Detroit, MI 48202

Jodie L. Miner, Esq.
Terri A. Czajka, Esq.
Ice, Miller, Donaldion & Ryan
Glove Valve Corporation
One American Square
Box 82001
Indianapolis, IN 46282-0002

City of Madeira
C.J. Schmidt, Esq.
Wood & Lamping
600 Vine Street, Suite 2500
Cincinnati, Ohio 45202


City of Blue Ash
Jeffery S. Goldenberg, Esq.
Murdock & Goldenberg
700 Walnut Street, Suite 400
Cincinnati, Ohio 45202-2011

City of Mason
C.J. Schmidt, Esq.
Wood & Lamping
600 Vine Street, Suite 2500
Cincinnati, Ohio 45202

City of Deer Park
Jeffery S. Goldenberg, Esq.
Murdock & Goldenberg
700 Walnut Street, Suite 400
Cincinnati, Ohio 45202-2011

City of Monroe
Stephen N. Haughey, Esq.
Frost & Jacobs
201 East Fifth St., Suite 2500
Cincinnati, Ohio 45202

City of Sharonville
Thomas T. Keating, Esq.
10900 Reading Road
Cincinnati, Ohio 45241



Pat Holton
Litigative Administrative Specialist

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO KENNEDY & MURPHY
WESTERN DIVISION

01 APR -2 PM 3:55

UNITED STATES OF AMERICA

Plaintiff,

v.

ELSA SKINNER-MORGAN, et al.

Defendants.

CIVIL ACTION NO.

1807

CONSENT DECREE

Judge	<i>[Signature]</i>
Mag.	<i>[Signature]</i>
Journal	<i>[Signature]</i>
Index	<i>[Signature]</i>
Declarated	

behalf of that Party with respect to all matters arising under or relating to this Consent Decree.

Settling Defendants hereby agree to accept service in that manner and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including, but not limited to, service of a summons.

XLII. FINAL JUDGMENT

170. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment between and among the United States and the Settling Defendants. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R.Civ. P. 54.

SO ORDERED THIS 2nd DAY OF April 2001.


United States District Judge

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Elsa Skinner Morgan, et al., relating to the Skinner Landfill Superfund Site.

Date: 5/25/00

FOR THE UNITED STATES OF AMERICA


Lois J. Shiffer

Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

FILED
KENNETH J. MURPHY

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

01 APR -2 PM 3: 54

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION
CINCINNATI

UNITED STATES OF AMERICA,

Plaintiff,

v.

ELSA MORGAN-SKINNER, ET AL

Defendants.

C-1-00-424

CIVIL ACTION NO.

WEBER, J.

Judge	<i>[Signature]</i>
Mag.	
Journal	<i>[Signature]</i>
Issues	
Declaratory	<i>[Signature]</i>

CONSENT DECREE

Q 3

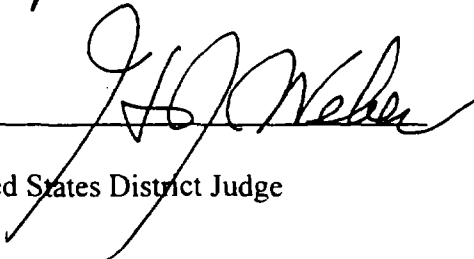
16

27. Each Settling Defendant hereby agrees not to oppose entry of this Consent Decree by this Court or to challenge any provision of this Consent Decree, unless the United States has notified Settling Defendants in writing that it no longer supports entry of the Consent Decree.

28. Each Settling Defendant shall identify, on the attached signature page, the name and address of an agent who is authorized to accept service of process by mail on behalf of that Party with respect to all matters arising under or relating to this Consent Decree. Settling Defendants hereby agree to accept service including, but not limited to, service of a summons, in that manner and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court.

29. Contemporaneous with the filing of the complaint in this action, the United States shall file a stipulation or motion for an extension of time to answer the complaint in favor of each Settling Defendant, which extension shall run until 30 days after the United States withdraws or withholds its consent pursuant to Section XV (Public Comment) or the Court declines to enter this Consent Decree.

SO ORDERED THIS 2nd DAY OF April, 2001.


United States District Judge

UNITED STATES OF AMERICA,

Plaintiff,

v.

ELSA MORGAN-SKINNER, ET AL

Defendants.

CIVIL ACTION NO.

CONSENT DECREE

TABLE OF CONTENTS

I.	<u>BACKGROUND</u>	2
II.	<u>JURISDICTION</u>	6
III.	<u>PARTIES BOUND</u>	6
IV.	<u>STATEMENT OF PURPOSE</u>	6
V.	<u>DEFINITIONS</u>	7
VI.	<u>PAYMENT</u>	9
VII.	<u>FAILURE TO MAKE PAYMENT</u>	11
VIII.	<u>CERTIFICATION OF SETTLING DEFENDANT</u>	11
IX.	<u>COVENANT NOT TO SUE BY UNITED STATES</u>	12
X.	<u>RESERVATIONS OF RIGHTS BY UNITED STATES</u>	13
XI.	<u>COVENANT NOT TO SUE BY SETTLING DEFENDANTS</u>	15
XII.	<u>EFFECT OF SETTLEMENT/CONTRIBUTION PROTECTION</u>	15
XIII.	<u>RETENTION OF JURISDICTION</u>	16
XIV.	<u>INTEGRATION/APPENDICES</u>	16
XV.	<u>PUBLIC COMMENT</u>	17
XVI.	<u>EFFECTIVE DATE</u>	17
XVII.	<u>SIGNATORIES/SERVICE</u>	17

UNITED STATES OF AMERICA,

Plaintiff,

v.

ELSA MORGAN-SKINNER, ET AL

Defendants.

CIVIL ACTION NO.

I. BACKGROUND

B. As a result of the release or threatened release of hazardous substances at the Site, EPA has undertaken response actions at or in connection with the Site under Section 104 of CERCLA, 42 U.S.C. § 9604, and will undertake response actions in the future. In performing these response actions, EPA has incurred and will continue to incur response costs at or in connection with the Site including:

1. Pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, EPA placed the Site on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on September 8, 1983, 48 Fed. Reg. 40658.

2. In May of 1991, EPA completed a Remedial Investigation ("RI") at the Site, and in April of 1992, EPA completed a Feasibility Study ("FS") of the Site. The RI and FS documented the release or threatened release of hazardous substances, pollutants, and contaminants at the Site. In accordance with Section 104(b) of CERCLA, the RI describes the EPA's findings on the nature and extent of contamination at the Site, while the FS Report considered alternatives necessary to address the conditions at the Site.

3. Pursuant to Section 117 of CERCLA, 42 U.S.C. § 9617, EPA published notice of the completion of the FS and of the proposed plan for remedial action on May 27, 1992, in a major local newspaper of general circulation. EPA provided an opportunity for written and oral comments from the public on the proposed plan for remedial action. A copy of the transcript of the public meeting is available to the public as part of the administrative record upon which the Regional Administrator, or his/her delegate, based the selection of the interim response action.

4. EPA selected an "interim" remedial action to be implemented at the Site and embodied that decision in an interim Record of Decision ("interim ROD"), executed on September 30, 1992, on which the State had given its concurrence. The interim ROD includes EPA's explanation for any significant differences between the interim ROD and the proposed plan as well as a responsiveness summary to the public comments. Notice of the interim plan was published in accordance with Section 117(b) of CERCLA.

5. Subsequent to the issuance of the interim ROD, EPA issued a Unilateral

Administrative Order ("UAO"), to several potentially responsible parties at the Site, pursuant to Section 106 of CERCLA, 42 U.S.C. § 9606, for the performance of the remedial actions identified in the interim ROD. Several parties complied with and completed the remedial actions specified in the UAO.

6. Pursuant to Section 117 of CERCLA, 42 U.S.C. § 9617, in December of 1992, EPA published notice of the proposed plan for final remedial action in a major local newspaper of general circulation. EPA provided an opportunity for written and oral comments from the public on the proposed final plan for remedial action. A copy of the transcript of the public meeting is available to the public as part of the administrative record upon which the Regional Administrator, or his/her delegatee, based the selection of the response action.

7. The decision by EPA on the final remedial action to be implemented at the Site was embodied in a final ROD ("ROD"), executed on June 4, 1993, on which the state has given its concurrence. The ROD includes a responsiveness summary to the public comments. Notice of the final remedial plan was published in accordance with Section 117(b) of CERCLA.

8. Subsequent to the issuance of the ROD, EPA and several potentially responsible parties at the Site entered into an Administrative Order by Consent ("AOC"), effective March 29, 1994, for the design of the remedial actions selected in the ROD. Pursuant to the AOC, the signatories to the AOC created the remedial design for the remedial action. EPA approved the remedial design on June 19, 1996.

C. The Regional Administrator of EPA, Region 5, or his/her delegatee, has determined the following:

1. Each Settling Defendant generated and/or transported only Municipal Solid Waste ("MSW") and/or Municipal Sewage Sludge ("MSS") to the Site.

2. Prompt settlement with each Settling Defendant is practicable and in the public interest.

3. The settlement amounts presented in Appendix A are based upon each Settling Defendant's contribution of waste to the Site, considering the volume and toxicity of the waste, and represent a fair and reasonable settlement of each Settling Defendant's liability at the Site for any claims the United States or any other person may have against each particular Settling Defendant arising from response actions taken or to be taken at the Site.

D. Based upon information provided by Settling Defendants, as determined pursuant to the Court-authorized ADR allocation process, and other relevant information, the United States estimates that Settling Defendants contributed Municipal Solid Waste or Municipal Sewage Sludge to the Site in the quantities shown in Appendix A.

E. Settling Defendants do not admit any liability to Plaintiff arising out of the transactions or occurrences alleged in the complaint.

F. The United States and Settling Defendants agree that settlement without further litigation and without the admission or adjudication of any issue of fact or law is the most appropriate means of resolving this action with respect to Settling Defendants.

G. The Parties agree and this Court, by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith, that settlement of this matter will avoid prolonged and complicated litigation between the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

THEREFORE, with the consent of the Parties to this Consent Decree, it is ORDERED, ADJUDGED, and DECREED:

II. JURISDICTION

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. §§ 9606, 9607, and 9613(b), and also has personal jurisdiction over Settling Defendants. Settling Defendants consent to and shall not challenge the terms of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree.

III. PARTIES BOUND

2. This Consent Decree applies to and is binding upon the United States and upon Settling Defendants and their successors and assigns. Any change in a Settling Defendant's status as a municipal corporation or in a Settling Defendant's home rule powers, including, but not limited to, any transfer of assets or real or personal property, shall not alter such Settling Defendant's responsibilities under this Consent Decree.

IV. STATEMENT OF PURPOSE

3. By entering into this Consent Decree, the mutual objectives of the Parties are:

a. to reach a final settlement among the Parties with respect to the Site that allows Settling Defendants to make a cash payment to resolve their alleged civil liability under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607, for injunctive relief with regard to the Site and for Response Costs incurred and to be incurred at or in connection with the Site, whether incurred by the United States or by private parties, thereby reducing litigation and simplifying any remaining administrative and judicial enforcement activities concerning the Site; and

b. to obtain settlement with Settling Defendants for their appropriate share of Response Costs incurred and to be incurred at or in connection with the Site by the EPA Hazardous Substance Superfund, and by other responsible parties, and to provide for full and complete contribution protection for Settling Defendants with regard to the Site pursuant to Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2).

V. DEFINITIONS

4. Unless otherwise expressly provided herein, terms used in this Consent Decree that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in the statute or regulations. Whenever the terms listed below are used in this Consent Decree, the following definitions shall apply:

"CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq.

"Consent Decree" or "Decree" shall mean this Consent Decree and all appendices attached hereto. In the event of conflict between this Consent Decree and any appendix, the Consent Decree shall control.

"Court-Authorized ADR Allocation Process" shall mean the alternative dispute resolution process mandated by the Court for the parties to the litigation, The Dow Chemical Company, et. al. v. Acme Wrecking Co., Inc. et al. (C-1-97-307) and The Dow Chemical Company, et al. v. Sun Oil Company d/b/a Sunoco Oil Corp., et al. (C-1-97-0308) (S.D. Ohio), which process was also participated in voluntarily by other parties allegedly implicated at the Skinner Landfill Site that were not named in the litigation.

"Day" shall mean a calendar day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

"EPA" shall mean the United States Environmental Protection Agency and any successor departments, agencies or instrumentalities.

"EPA Hazardous Substance Superfund" shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

"Interest" shall mean interest at the current rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a).

"Municipal Solid Waste" shall mean household waste and solid waste collected from non-residential sources that is essentially the same as household waste. While the composition of such wastes may vary considerably, municipal solid waste generally is composed of large volumes of non-hazardous substances (e.g., yard waste, food waste, glass, and aluminum) and can contain small amounts of other wastes as typically may be accepted in RCRA Subtitle D landfills.

"Municipal Sewage Sludge" shall mean any solid, semi-solid, or liquid residue removed during the treatment of municipal waste water or domestic sewage sludge, including sewage sludge containing residue removed during the treatment of wastewater from manufacturing or processing operations, if such residue has essentially the same characteristics as residue removed during the treatment of domestic sewage sludge.

"Paragraph" shall mean a portion of this Consent Decree identified by an Arabic numeral or an upper or lower case letter.

"Parties" shall mean the United States and the Settling Defendants.

"RCRA" shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C. § 6901, et seq. (also known as the Resource Conservation and Recovery Act).

"Record of Decision" or "ROD" shall mean the EPA Record of Decision relating to the Site signed on June 4, 1993, by the Regional Administrator, EPA Region 5, or his/her delegate, and all attachments thereto.

"Response Costs" shall mean all costs of "response" as that term is defined by Section 101(25) of CERCLA, 42 U.S.C. § 9601(25).

"Section" shall mean a portion of this Consent Decree identified by a roman numeral.

"Settling Defendants" shall mean those persons, corporations or other entities listed in Appendix A.

"Site" shall mean the Skinner Landfill Superfund site, encompassing approximately 67 acres, located ½ mile east of Interstate 75 on the Cincinnati-Dayton Road in West Chester, Union Township, Ohio, and legally described in Appendix B-1 and depicted generally on the map attached as Appendix B-2.

"United States" shall mean the United States of America, including its departments, agencies and instrumentalities.

VI. PAYMENT

5. Within 30 days of the effective date of this Consent Decree, each Settling Defendant shall pay to the Skinner Landfill Special Account, in reimbursement of Response Costs, the amount set forth in Appendix A.

6. Each Settling Defendant's payment is to address Response Costs incurred at or in

connection with the Site.

7. Each payment shall be made by certified or cashier's check or checks made payable to the "Skinner Landfill Special Account," referencing USAO File Number _____, EPA Site-Spill Identification Number 0573, and DOJ Case Number 90-11-3-1620. Settling Defendants shall send the check to:

United States Attorney's Office
Southern District of Ohio
Attention: Collections
280 N. High Street, 4th Floor
Columbus, Ohio 43215

8. At the time of payment, each Settling Defendant shall send notice that such payment has been made to:

Chief, Environmental Enforcement Section
United States Department of Justice
DJ No. 90-11-3-1620
P.O. Box 7611
Washington, D.C. 20044-7611

Anthony Audia
U.S. EPA Region 5
Program Account and Analysis Section
Comptroller Branch, ML-10C
77 West Jackson
Chicago, Illinois 60604

Scott Hansen
Remedial Project Manager
Superfund Division, SR-6J
77 West Jackson
Chicago, Illinois 60604

Craig Melodia
Assistant Regional Counsel, C-14J
Office of Regional Counsel
77 West Jackson
Chicago, Illinois 60604

9. The total amount to be paid by Settling Defendants pursuant to Paragraph 5 shall be deposited in the Skinner Landfill Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to reimburse the United States for Response Costs incurred and paid at or in connection with the Site by the EPA Hazardous Substance Superfund. Any balance remaining in the Skinner Landfill Special Account shall be transferred by EPA to the EPA Hazardous Substance Superfund.

VII. FAILURE TO MAKE PAYMENT

10. If any Settling Defendant fails to make full payment within the time required by Paragraph 5, that Settling Defendant shall pay Interest on the unpaid balance. In addition, if any Settling Defendant fails to make full payment as required by Section VI, the United States may, in addition to any other available remedies or sanctions, bring an action against that Settling Defendant seeking injunctive relief to compel payment and/or seeking civil penalties under Section 122(f) of CERCLA, 42 U.S.C. 9622(f), for failure to make timely payment.

VIII. CERTIFICATION OF SETTLING DEFENDANT

11. By signing this Consent Decree, each Settling Defendant certifies, individually, that, to the best of its knowledge and belief, it has:

a. conducted a thorough, comprehensive, good-faith search for documents, and has fully and accurately disclosed to EPA all information currently in its possession, or in the possession

of its officers, directors, employees, contractors or agents, which relates in any way to the ownership, operation, or control of the Site, or to the ownership, possession, generation, treatment, transportation, storage or disposal of any hazardous substance, pollutant, contaminant, or solid waste at or in connection with the Site;

b. not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents, or other information relating to its potential liability regarding the Site after notification of potential liability regarding the Site; and

c. fully complied with any and all EPA requests for information regarding the Site pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e).

d. fully complied with any and all information disclosure and production obligations imposed upon or assumed by participants in the Court-Authorized ADR Allocation Process.

IX. COVENANT NOT TO SUE BY UNITED STATES

12. In consideration of the payments that will be made by each Settling Defendant under the terms of this consent decree, and except as specifically provided in Section X (Reservations of Rights by the United States), the United States covenants not to sue or take administrative action against any particular Settling Defendant pursuant to Sections 106 or 107 of CERCLA, 42 U.S.C. §§ 9606 or 9607, relating to the Site. With respect to present and future liability, this covenant not to sue shall take effect for each Settling Defendant upon receipt of that Settling Defendant's payment as required by Section VI of this Consent Decree. With respect to each Settling Defendant, individually, this covenant not to sue is conditioned upon: a) the satisfactory performance by that Settling Defendant of all obligations under this Consent Decree, including, and not limited to, cash payment into the Skinner Landfill Special Account; and b) the veracity and completeness of the information provided to EPA by that Settling Defendant relating to its involvement with the Site,

and c) the veracity of the information provided by that Settling Defendant in the Court-Authorized ADR Allocation Process. This covenant not to sue extends only to each Settling Defendant and does not extend to any other person.

X. RESERVATIONS OF RIGHTS BY UNITED STATES

13. The United States reserves, and this Agreement is without prejudice to, all rights against Settling Defendants with respect to all matters not expressly included within the Covenant Not to Sue by the United States in Section IX. Notwithstanding any other provision of this Consent Decree, the United States reserves, and this Consent Decree is without prejudice to, all rights against Settling Defendants with respect to:

- a. liability for failure to meet a requirement of this Consent Decree;
- b. criminal liability;
- c. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural damage assessments; or
- d. liability, based upon the ownership or operation of the Site or any activity with respect to a hazardous substance or a solid waste at or in connection with the Site, arising after signature of this Consent Decree by Settling Defendants.

14. Notwithstanding any other provision in this Consent Decree, the United States reserves, and this Consent Decree is without prejudice to, the right to institute proceedings against any individual Settling Defendant in this action or in a new action or to issue an administrative order to any individual Settling Defendant seeking to compel that Settling Defendant to perform response actions relating to the Site, and/or to reimburse the United States for additional costs of response, if:

a. new information, previously unknown, is discovered which indicates that any Settling Defendant contributed at least 10% more Municipal Solid Waste or Municipal Sewage Sludge than the amount indicated in Appendix A; or

b. information, previously unknown to EPA, is discovered, which indicates that such Settling Defendant contributed material containing hazardous substances to the Site other than Municipal Solid Waste or Municipal Sewage Sludge; or

c. conditions at the Site, previously unknown to EPA, are discovered, or information, previously unknown to EPA, is received, in whole or in part, and these previously unknown conditions or this information, together with other relevant information, indicate that the Remedial Action is not protective of human health or the environment, and that the conditions supporting the determination that the Remedial Action is not protective are based primarily on the presence of Municipal Solid Waste or Municipal Sewage Sludge at the Site.

15. For purposes of Subparagraphs 14(a) and 14(b), the information known to EPA shall include only that information known to EPA as of the date the Consent Decree is entered. For purposes of Paragraph 14(c), the information and conditions known to EPA shall include only that information and those conditions known to EPA as of the effective date of this Consent Decree, as set forth in the interim ROD and the ROD for the Site and the administrative record supporting the interim ROD and the ROD, post-ROD administrative record, any information submitted to EPA pursuant to the Remedial Design AOC, including the approved Remedial Design or the UAO.

XI. COVENANT NOT TO SUE BY SETTLING DEFENDANTS

16. Settling Defendants covenant not to sue and agree not to assert any claims or causes of action against the United States or its contractors or employees with respect to the Site or this Consent Decree including, but not limited to:

- a. any direct or indirect claim for reimbursement from the EPA Hazardous Substance Superfund based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606 (b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;
- b. any claim arising out of response activities at the Site; and
- c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Site.

17. Nothing in this Consent Decree shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. 300.700(d).

18. Settling Defendants covenant not to sue and agree to not assert any claims or causes of action against each other or any other person for all matters relating to the Site, including contribution.

XII. EFFECT OF SETTLEMENT/CONTRIBUTION PROTECTION

19. Except as provided in Paragraph 18, nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree. The United States reserves any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action it may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto.

20. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, recovery of Response Costs, or other relief relating to the Site, Settling Defendants shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised in the subsequent proceeding were or should have been brought in the instant action; provided, however, that nothing in this Paragraph affects the enforceability of the covenant not to sue included in Paragraph 12.

21. The Parties agree, and by entering this Consent Decree this Court finds, that each Settling Defendant is entitled, as of the date of entry of this Consent Decree, to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), for "matters addressed" in this Consent Decree. The "matters addressed" in this Consent Decree are all response actions taken or to be taken and all Response Costs incurred or to be incurred by the United States or any other person with respect to the Site.

XIII. RETENTION OF JURISDICTION

22. This Court shall retain jurisdiction over this matter for the purpose of interpreting and enforcing the terms of this Consent Decree.

XIV. INTEGRATION/APPENDICES

23. This Consent Decree and its appendices constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Consent Decree. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Consent Decree. The following appendices are attached and incorporated into this Consent Decree:

"Appendix A" is the list of Settling Defendants, settlement amounts, and the estimated quantities of MSW and/or MSS contributed by each to the Site.

"Appendix B-1" is the legal description and "Appendix B-2" is the map of the Site.

XV. PUBLIC COMMENT

24. Pursuant to the provisions of CERCLA § 122(d)(2), 42 U.S.C. § 9622(d)(2), this Consent Decree shall be lodged with the Court for a period of not less than 30 days for public notice and comment. The United States shall file with the Court any written comments received and the United States' response thereto. The United States reserves the right to withdraw or withhold its consent if comments regarding the Consent Decree disclose facts or considerations which indicate that this Consent Decree is inappropriate, improper or inadequate. Settling Defendants consent to entry of this Consent Decree without further notice, and the United States reserves the right to oppose an attempt by any person to intervene in this civil action.

XVI. EFFECTIVE DATE

25. The effective date of this Consent Decree shall be the date of entry by this Court, following public comment pursuant to Paragraph 24.

XVII. SIGNATORIES/SERVICE

26. Each undersigned representative of a Settling Defendant to this Consent Decree and the Assistant Attorney General for the Environment and Natural Resources Division of the United States Department of Justice, or her delegee, certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and bind legally such party to this document.

27. Each Settling Defendant hereby agrees not to oppose entry of this Consent Decree by this Court or to challenge any provision of this Consent Decree, unless the United States has notified Settling Defendants in writing that it no longer supports entry of the Consent Decree.

28. Each Settling Defendant shall identify, on the attached signature page, the name and address of an agent who is authorized to accept service of process by mail on behalf of that Party with respect to all matters arising under or relating to this Consent Decree. Settling Defendants hereby agree to accept service including, but not limited to, service of a summons, in that manner and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court.

29. Contemporaneous with the filing of the complaint in this action, the United States shall file a stipulation or motion for an extension of time to answer the complaint in favor of each Settling Defendant, which extension shall run until 30 days after the United States withdraws or withholds its consent pursuant to Section XV (Public Comment) or the Court declines to enter this Consent Decree.

SO ORDERED THIS ____ DAY OF _____, _____.

United States District Judge

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of *United States of America v. Elsa Morgan-Skinner, et al.*, relating to the Skinner Landfill in West Chester, Ohio:

FOR THE UNITED STATES OF AMERICA

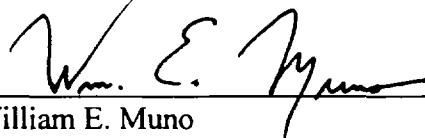
Date: May 25, 2000

L. J. Schiffer 5/25/00
Lois J. Schiffer
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

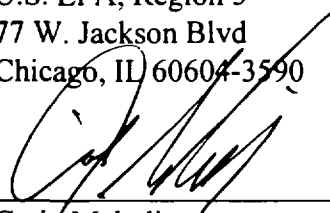
Denay H. Howard for Elliot M. Rockler
Elliot M. Rockler
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044

Sharon J. Zealey
United States Attorney
Southern District of Ohio

By: _____
Gerald F. Kaminski (Ohio Bar No. 0012532)
Assistant U.S. Attorney
Southern District of Ohio
220 U.S.P.O. & Courthouse
5th & Walnut Sts.
Cincinnati, Ohio 45202
(513) 684-3711



William E. Muno
Division Director, Superfund Division
U.S. EPA, Region 5
77 W. Jackson Blvd
Chicago, IL 60604-3590



Craig Melodia
Assistant Regional Counsel
Office of Regional Counsel, C-14J
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Blvd
Chicago, IL 60604-3590

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of *United States of America v. Elsa Morgan-Skinner, et al.*, relating to the Skinner Landfill Superfund Site.

FOR DEFENDANT Herman M. Dantzler

Date: May 1, 2000

Name and address of Defendant's signatories

Name: Herman M. Dantzler

Title: Village Manager

Address: 1201 Steffens Avenue
Lincoln Heights, OH 45215

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Matthew W. Pellerhoff

Title: Attorney

Address: Manley, Burke & Cook
225 W. Court St.
Cincinnati, Ohio 45202

04/19/00

11:31

KEATING, RITCHIE & SWICK → 9P13128867160

NO.839

002

04-10-00 13:52 FROM.

ID.

PAGE 11/14

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of *United States of America v. Elsa Morgan-Skinner, et al.*, relating to the Skinner Landfill Superfund Site.

FOR DEFENDANT City of Sharonville

Date: April 19, 2000

Names and address of Defendant's signatories

Name: City of Sharonville

Title:


by: Thomas T. Keating, Law Director

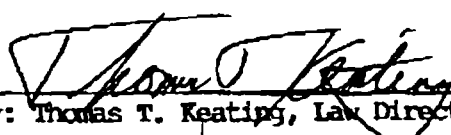
Address: 10900 Reading Road

Cincinnati, OH 45241

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: City of Sharonville

Title:

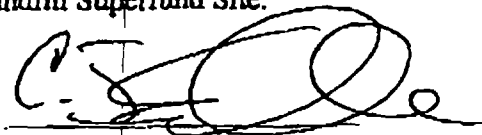

by: Thomas T. Keating, Law Director

Address: 10900 Reading Road

Cincinnati, OH 45241

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of *United States of America v. Elsa Morgan-Skinner, et al.*, relating to the Skinner Landfill Superfund Site.

FOR DEFENDANT



Date: April 20, 2000

Names and address of Defendant's signatories

Name: C.J. Schmidt

Title: Law Director, City of Madeira

Address: Wood & Lamping LLP

600 Vine Street, Suite 2500

Cincinnati, Ohio 45202

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: C.J. Schmidt

Title: Law Director, City of Madeira

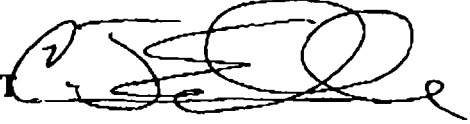
Wood & Lamping LLP

Address: 600 Vine Street, Suite 2500

Cincinnati, Ohio 45202

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of *United States of America v. Elsa Morgan-Skinner, et al.*, relating to the Skinner Landfill Superfund Site.

FOR DEFENDANT



Date: April 20, 2000

Names and address of Defendant's signatories

Name: C.J. Schmidt

Title: Law Director, City of Mason

Address: Wood & Lamping LLP

600 Vine Street, Suite 2500

Cincinnati, Ohio 45202

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: C.J. Schmidt

Title: Law Director, City of Mason

Address: Wood & Lamping LLP

600 Vine Street, Suite 2500

Cincinnati, Ohio 45202

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of *United States of America v. Elsa Morgan-Skinner, et al.*, relating to the Skinner Landfill Superfund Site.

FOR DEFENDANT
City of Blue Ash



Date: 4-19-00

Names and address of Defendant's signatories

Name: City of Blue Ash; Jeffrey S. Goldenberg, Esq.

Title: Attorney for City of Blue Ash

Address: Murdoch & Goldenberg, L.P.A.
700 Walnut St; Suite 400
Cincinnati, Ohio 45202-2011

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Jeffrey S. Goldenberg, Esq.

Title: Attorney for City of Blue Ash

Address: Murdoch & Goldenberg, L.P.A.
700 Walnut St; Suite 400
Cincinnati, Ohio 45202-2011

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of *United States of America v. Elsa Morgan-Skinner, et al.*, relating to the Skinner Landfill Superfund Site.

FOR DEFENDANT

David A. O'Leary

Date: 4-19-00

Names and address of Defendant's signatories

Name: DAVID A. O'LEARY

Title: SAFETY-SERVICE DIRECTOR

Address: 4250 MASON AVE.

DEER-PARK, OHIO 45236

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Jeffrey S. Goldenberg, Esq.

Title: Attorney for City of Deer Park

Address: Murdock B. Goldenberg, L.P.A.

700 Walnut Street; Suite 400

Cincinnati, Ohio 45202-2011

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of *United States of America v. Elsa Morgan-Skinner, et al.*, relating to the Skinner Landfill Superfund Site.

Stephen N. Haughey on behalf of
FOR DEFENDANT CITY OF MONROE, OHIO

Date: April 25, 2000

Names and address of Defendant's signatories

Name: *Stephen N. Haughey*
Stephen N. Haughey, Esq.

Title: Trial Counsel

Address: FROST & JACOBS LLP
201 East Fifth Street, Suite 2500
Cincinnati, OH 45202

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Stephen N. Haughey, Esq.

Title: Counsel

Address: FROST & JACOBS LLP
201 East Fifth Street, Suite 2500
Cincinnati, OH 45202
(513) 651-6127

United States of America v. City of Blue Ash, City of Deer Park, City of Madeira, City of Mason, City of Sharonville, Village of Lincoln Heights, Village of Monroe

APPENDIX A

	<u>Quantity in Tons</u>	<u>Settlement</u>
1) <u>City of Blue Ash</u>	112.2	\$594.66
2) <u>City of Deer Park</u>	533.25	\$2,826.22
3) <u>City of Madeira</u>	624	\$3,307.20
4) <u>City of Mason</u>	90	\$477
5) <u>City of Sharonville</u>	296	\$1,568.80
6) <u>Village of Lincoln Heights</u>	1,420	\$7,526
7) <u>Village of Monroe</u>	173.25	\$918.22

TOTAL SETTLEMENT = \$ 17,218.10